

**REMARKS**

The Office Action mailed June 29, 2004 has been reviewed and the comments of the Patent and Trademark Office have been considered. Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

**Status of Claims**

This amendment adds and deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier. In the present amendment and reply, claim 11 is being cancelled, claims 12-15 have been added while no claims are being amended. Therefore, claims 1-10 and 12-15 are pending in the application and are submitted for reconsideration.

**Restriction Requirement (Paragraph 2 of Office Action)**

The Office Action notes a possible future restriction between system and method claims. Since none of the claims are being amended, no restriction is believed to be required based on the instant reply.

**Claim Construction Issues (Paragraphs 6-10 of the Office Action)**

With respect to paragraph 7, applicant agrees with the "broadest reasonable interpretation" standard for examination purposes. However, regarding claim interpretation for other purposes, applicant defers to appropriate legal standard for claim interpretation based on intrinsic evidence (including the evolving file history) and appropriate extrinsic evidence. Applicant notes that the case law cited in the Office Action may be completely or partially overruled by the current en-banc consideration of the *Phillips v. AWH Corporation* case by the Court of Appeals for the Federal Circuit to address the current state of the law on claim construction.

With respect to paragraph 8, applicant notes that the term 'server' is defined in the specification as a machine (including a program) that is connected to a network to receive data from a client. See, *for example*, the position-measuring server 50 that is connected by an

Ethernet network 70 to receive position data of the load 20, as disclosed on page 4, lines 19-23.

With respect to paragraph 9, applicant believes that the claims 6-10 are method claims and not product-by-process claims.

With respect to paragraph 10, applicant has canceled claim 11 which is the only original claim written in means-plus-function format.

### **Prior Art Rejections**

In the Office Action, claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,430,831 (“Snellen”) and by U.S. Patent No. 5,565,858 (“Guthrie”). Applicant respectfully traverses these rejections for at least the following reasons.

Independent claims 1 and 6 recite a system or method that recite, *inter alia*, a second unit (or step) that develops the determined *absolute physical position* to a *relative logical position*. At least this recited feature is not disclosed or suggested by the applied prior art.

Specifically, Snellen discloses a matrix representation, but fails to teach a second unit (or step) which develops the determined *absolute physical position* to a *relative logical position*.” Guthrie discloses a device which assists in locating a container *relative* to other containers (see Abstract and claim 1, for example), but fails to teach “a server (or step) which determines an *absolute physical position* of each load” and “a second unit (or step) which develops the determined *absolute physical position* to a *relative logical position*.” Therefore, the novelty rejection against claims 1-11 should be withdrawn since specific recited features in the pending independent claims are not disclosed or suggested by the applied prior art.

In addition, the claimed features recited in claims 1 and 6 provide the following advantages:

- 1) Since the position of a load is automatically measured as an absolute physical position, it is not necessary for the operator to manually input and register the load position, and therefore errors based on manual input are eliminated;
- 2) Since the absolute physical position is developed to a relative logical position which corresponds to a load layout in the warehouse, the operator can easily grasp actual

arrangement of the loads by virtue of the relative logical position as compared with the absolute physical position; and

3) Since the inventory control is carried out by converting the absolute physical position into the relative logical position, a load layout in the warehouse can be changed flexibly, and does not require determining the load layout in advance.

Therefore, neither the features recited in the pending independent claims nor its advantages are disclosed or suggested by the applied prior art. Accordingly, the pending independent claims are believed to be patentable over the applied prior art.

The dependent claims are also in condition for allowance for at least the same reasons as the independent claims on which they ultimately depend. In addition, they recite additional patentable features when considered as a whole.

For example, new claims 12-15 recite additional features that are not disclosed or suggested by either of the applied references. The features in claims 12 and 14 are supported, for example, on page 5, lines 2-4 of the specification. The features in claims 13 and 15 are supported, for example, on page 6, lines 18-19 of the specification. Therefore, these recited features provide additional reasons for the patentability of these claims.

**Conclusion**

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge deposit account No. 19-0741 for any such fees; and applicant hereby petitions for any needed extension of time.

Respectfully submitted,

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